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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,024	07/31/2001	Harunori Hirao	4296-144	3715

7590 10/22/2003

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EXAMINER

OH, TAYLOR V

ART UNIT PAPER NUMBER

1625

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DATE MAILED: 10/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/919,024

Applicant(s)

HIRAO ET AL.

Examiner

Taylor Victor Oh

Art Unit

1625

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 July 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) The period for reply expires 3 months from the mailing date of the final rejection.
- b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

- 1. A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
- 2. The proposed amendment(s) will not be entered because:
 - (a) they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) they raise the issue of new matter (see Note below);
 - (c) they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

- 3. Applicant's reply has overcome the following rejection(s): _____.
- 4. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
- 5. The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: see pages 2-3.
- 6. The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
- 7. For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-4.

Claim(s) withdrawn from consideration: _____.

- 8. The proposed drawing correction filed on _____ is a) approved or b) disapproved by the Examiner.
- 9. Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
- 10. Other: _____.

It is noted that applicants have filed an Amendment after the Final Rejection; applicants' attorney has addressed the issues of record or rebutted the claim rejections 1-2, and 4 under 35 USC 112 and the claim rejections 1-4 under 35 USC 102 (b). However, applicants' attorney did not reduce the issue and the scope of claims 1-2, and 4 with respect to the particular claimed language "a raw material to be oxidized".

Furthermore, concerning the claim rejections 1-4 under 35 USC 102 (b) based on the Takada reference, applicants argue the followings:

1. the Takada has failed to disclose any step of causing the raw material and molecular oxygen-containing gas to pass a range in which the concentration of the raw material is less than the concentration of the lower explosion limit of the raw material and the concentration of oxygen is not less than the limiting oxygen concentration.
2. there is no teaching in Takada of controlling conditions of a raw material and a molecular oxygen-containing gas in the start-up of a reactor and the advantages associated therewith .

First, with regard to the first and second arguments, the Examiner has noted applicants' argument. However, the Takada et al reference does mention that a catalytic vapor phase oxidation process is generally exothermic and it is important to control the reaction temperature within a certain range (see col.1 ,lines 16-20) in order to avoid undesired combustion reactions (see col. 1 ,lines 35-37). Furthermore, In example 5, the reference does teach that a reaction gas

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composition of 7.0 % by volume of propylene, 12.6 % by volume of oxygen , 10 % by volume of steam and balance of inert gas containing nitrogen gas is supplied to the catalyst stage (see col. 10 ,lines 17-21). From the aboves, it becomes evident that the Takada et al process does imply the importance of the explosion limit of both raw and oxygen materials. Also, there is definitely a teaching in the Takada process of controlling conditions of the raw material and the molecular oxygen-containing gas in the start-up of the reactor. Therefore, they read on the claimed invention. Therefore, the issue still stands and the rejection of the claims is maintained.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Taylor Victor Oh whose telephone number is 703-305-0809. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alan Rotman can be reached on 703-308-4698. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-2742 for regular communications and 703-305-7401 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.

Victor Oh
10/21/03

Alan L. Rotman
ALAN L. ROTMAN
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